THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.36241 of 1998

Dated : 18.06.2007

Between:

Nanavat Heeralal S/o Harichander

... **PETITIONER**

And:

Joint Collector (Inams) Mahabubnagar and others.

....**RESPONDENTS**

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.36241 of 1998

ORDER:

This writ petition is filed seeking a Mandamus declaring the proceedings in Case No.B2/8/98 dated 24.09.1998 issued by the Joint Collector (Inams) Mahabubnagar and the consequential order of the Revenue Divisional Officer, Mahabubnagar, dated 10.11.1998, as arbitrary, illegal, unconstitutional and violative of provisions of A.P. Telangana Area (Abolition of Inams) Act, 1955 (for short 'the Act") and the Rules made thereunder and also violative of principles of natural justice and consequently set aside the same.

According to the petitioner, an extent of Acs.4.08 cents of land in Sy.No.321 situated at Tirumalagiri Village is an inam land and one Sri Y.Dhangar, was the Inamdar of the said land. Petitioner statedly purchased the said land from the said inamdar, for a valid consideration, and made an application to the Revenue Divisional Officer,

Mahabubnagar-second respondent herein, to grant Occupancy Right Certificate (ORC) under Section 8(1) read with Section 10 of the Act. The second respondent, after conducting enquiry, granted ORC in favour of the petitioner. However, six years after granting ORC in favour of the petitioner, third respondent herein questioned the ORC by filing an appeal before the Joint Collector (Inams), Mahabubnagar, first respondent herein, claiming to be a protected tenant of the said land and alleging that the ORC was issued without issuing any notice to him. The first respondent allowed the said appeal by, an order dated 24.09.1998.

Now the grievance of the petitioner is that the appellate authority has not given sufficient opportunity to him to establish as to how he is entitled to ORC, and as such the order of the appellate authority is violative of principles of natural justice.

Though sufficient time is granted to the learned Government Pleader to file counter-affidavit, no counter affidavit is filed. Of course, the third respondent, who claims to be the protected tenant, filed counter-affidavit denying the allegations made by the petitioner. However, as there is no counter-affidavit of the official respondents, controverting the contentions put forth by the petitioner, this Court is of the view that the matter requires fresh consideration.

As the third respondent's contention is that the second respondent, before granting ORC in favour of the petitioner, had not afforded any opportunity to him, it is desirable that the matter be remitted back to the original authority-second respondent herein, for fresh enquiry and disposal.

Accordingly, the writ petition is allowed setting aside the orders of the first and second respondents, dated 24.09.1998 and 10.11.1998, respectively, and the matter is remitted back to the second respondent-Revenue Divisional Officer, Mahabubnagar, for fresh enquiry, which

shall be completed within a period of three months from the date of receipt of a copy of this order. It is needless to observe that it is open for the petitioner as well as the third respondent to adduce oral and documentary evidence, if any, before the second respondent to establish their title.

Till the enquiry is completed, respondents 1 and 2 are hereby directed not to dispossess the petitioner from the land in question. There shall be no order as to costs.

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18.06.2007

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